

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 543 of 2000  
with  
CIVIL REVISION APPLICATION NO. 544 OF 2000

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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DOLAJI ANDHAJI BHATI

Versus

RAJIV RAMESHCHANDRA OZA  
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Appearance:

MR RD DAVE for Petitioner  
MR CH VORA for Respondent No. 1, 2, 3  
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CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 24/11/2000

ORAL JUDGEMENT

1. Dolaji Andhaji Patel - petitioner-original defendant, has filed this revision application under Section 115 of the Civil Procedure Code and has

challenged the order dated 5.5.2000 passed by the 4th Joint Civil Judge (S.D.), Bhavnagar, below Exh. 22 in Regular Civil Suit No. 152 of 1998. By the said order the learned judge has directed this suit along with other two suits, in all three suits to be heard together under Section 151 of the C.P.C.

2. The facts giving rise to this application are as under:

3. There is a property situated at Nanbha Wadi, in plot No. 12 one room admeasuring 10 x 10 ft. and another room admeasuring 15 x 15 ft. and there were some open land and water tank in this behalf. One Punamchand Chandulal Shah original owner of this property. Thereafter, by registered Sale Deed dated 30.11.1995 Dr. Rajiv Rameshchandra Oza purchased the entire premises and thereafter became the owner of the property. The petitioner, Dolaji Andhaji Bhati filed Regular Civil Suit No. 359 of 1995 before the learned Civil Judge (S.D.), Bhavnagar, in which he has prayed that Punamchand Chandulal Shah may be restrained from removing the plaintiff from the possession of the suit property.

4. Thereafter during the said proceedings the present respondent, namely, Dr. Rajiv Rameshchandra Oza and others filed Civil Suit No. 152 of 1998 for obtaining possession of the suit property, namely, outhouse premises and another Regular Civil Suit No. 462 of 1998 for obtaining possession of osri from the petitioner Shri Dolaji Andhaji Bhati, tenant of the said property.

5. During the pendency of these proceedings Shri Dolaji Andhaji Bhati had filed an application under Section 10 read with Section 151 of the Civil Procedure Code on 24.4.2000 and prayed that till Suit No. 359 of 1995 is disposed of, the court must stay the suit filed by the present opponent in Reg. Civil Suit No. 152 of 1998 and Regular Civil Suit No. 462 of 1998.

6. The learned 4th Joint Civil Judge (S.D.), Bhavnagar, by his judgement dated 5.5.2000 heard the matter and observed that though Regular Civil Suit No. 359 of 1995 is taken with other matters and issues were framed on 24.6.1998 the defendant in that suit and petitioner herein is not co-operating with the proceedings in the said suit whereas the plaintiffs-respondents herein in Regular Civil Suit No. 152 of 1998 and Regular Civil Suit No. 462 of 1998 are diligent and very keen to go on with the matter. After

observing the above, in its operative order the learned judge has stated that this suit i.e. Regular Civil Suit No. 152 of 1998 and other two suits, namely, Regular Civil Suit No. 462 of 1998 and Regular Civil Suit No. 359 of 1995 be heard together under Section 151 of the Civil Procedure Code.

7. I have heard Shri R.D. Dave, learned advocate for the petitioner and Mr. C.H. Vora, for the respondents in this behalf. After going through the record of the case, namely, plaint of Regular Civil Suit No. 395 of 1995 and the prayer contained therein at page 27 of the compilation, copy of the plaint of Regular Civil Suit No. 152 of 1998 and the prayer contained therein at page 37 and Regular Civil Suit No. 462 of 1998, particularly the prayer contained therein, I am of the view that the cause of action and relief in all the three suits are almost identical and overlapping and I agree with the operative order of the learned judge passed below Exh. 22 in Regular Civil Suit No. 152 of 1998 dated 5.5.2000 wherein the learned judge was pleased to club all the three suits together and direct that all the three suits are to be consolidated and to be heard together to remove any contradiction in this behalf. I am, therefore, of the view that the learned judge has properly exercised his discretion vested in him and there is no error apparent on the face of facts or in law. Therefore, I do not find any reason to interfere with the order of the learned judge.

8. In view of the same, the present revision applications are dismissed with no order as to costs.

9. Mr. Vora, learned counsel for the respondents, submits that the suit is of 1995 and some direction may be given to the learned judge to dispose of all three suits within three to four months from the date of receipt of the writ of this court. I am not aware of the board position of the learned judge but in view of the fact that the suit is of 1995, I request the learned judge to expedite hearing of all three suits and try to dispose of the same as expeditiously as possible after the receipt of the writ of this court.

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